

607 14<sup>th</sup> Street NW  
Suite 950  
Washington, DC 20005  
303 896 7843  
fax: 303 896 2726

**John W. Kure**  
Executive Director - Federal Regulatory



## **Ex Parte**

October 1, 2003

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

Re: In the Matter of the Federal-State Joint Board on Universal Service,  
CC Docket No. 96-45

Dear Ms. Dortch:

Attached is a one page summary concerning Qwest's position on the Tenth Circuit remand<sup>1</sup> of the high cost universal service support program for non-rural carriers. This is provided in response to a request made by Christopher Libertelli, Senior Legal Advisor to Chairman Michael Powell, in the meeting last week discussing the same subject.

Pursuant to FCC to FCC Rule 47 C.F.R. § 1.49(f), this *ex parte* is being filed electronically via the Electronic Comment Filing System for inclusion in the public record of the above referenced docket pursuant to FCC Rule 47 C.F.R. § 1.1206(b)(2).

Sincerely,

/s/ John W. Kure

cc: Christopher Libertelli (via e-mail at [christopher.libertelli@fcc.gov](mailto:christopher.libertelli@fcc.gov))

Attachment

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<sup>1</sup> Qwest Corp. v. FCC, 258 F.3d 1191 (10<sup>th</sup> Cir. 2001)

## **State Certification for Complying with the Tenth Circuit's Remand**

The FCC must provide inducements (*i.e.*, a carrot or a stick) for states to ensure that rural rates within their borders are reasonably comparable to urban rates. A funding methodology that would equitably distribute high cost universal service support to rural and high cost areas and would only be distributed if states take certain steps to remove implicit subsidies in intrastate rates would comply with the Tenth Circuit's remand.

### Recalculation and Redistribution of Federal High Cost Support

- More states must be eligible for high cost support to provide an incentive for states to remove implicit subsidies and ensure reasonably comparable and affordable rates.
- Qwest's Two-Tier Plan provides support to the costliest wire centers with additional support to those states with unusually high statewide average costs.
- Qwest's proposal provides high cost support to nearly all states. By providing support to a greater number of states, the FCC will create the "carrot".

### Conditions for Federal High Cost Support

1. A state must transfer the revenue requirement inherent in implicit subsidies from intrastate access rates, business services and vertical services to basic exchange rates which have been rebalanced to be reasonably aligned with cost.
2. And if necessary to maintain reasonable comparability of rates (within 150%) between low cost and high cost wire centers, a state has implemented a universal service program.

### Transition Plan

- January 1, 2004: Federal support is made available to carriers consistent with Qwest's Two-Tier Plan. If a state receives less federal support than under the current rules, a hold-harmless provision will be in place for one year.
- January 1, 2005: Hold-harmless support is phased out.
- January 1, 2006: Begin annual certification by the states that the conditions for federal high cost support have been met.